

REMARKS

Claims 1-45, 52 and 58-59 have been cancelled. Claims 46-51, 53-57 and 60-64 were pending in the present application prior to the present amendment. New claims 65-69 have been added and Claims 46 and 64 have been amended. The Examiner found that Claims 53-57 and 60-64 were allowable, but 46-51 and 64 were rejected. Applicants believe that the Examiner intended to state that 60-63 are allowable and that 64 is rejected. If this supposition is incorrect, Applicants respectfully request clarification from the Examiner.

Applicants point out that Mohan et al. (a complete copy of this reference is appended for the Examiner's convenience) does not disclose the preservative properties of quercetin. On the contrary, the final sentence of the "Materials and Methods" paragraph reads: "The eye drops were prepared fresh every 3rd day in 0.5% methylcellulose[.]" As observed by the Examiner the formula contains no preservative. Applicants respectfully suggest that is not evidence that Mohan knew of the preservative properties of flavonoids; rather, the lack of an added preservative was why the authors specified that the drops be made up fresh every third day. If Mohan et al. had been aware of the preservative properties of quercetin, the three day limit on drop life would not have been mentioned.

Applicants also appreciate the Examiner's point that an open claim such as Claim 46 claiming a range of 10 to 10,000 ppm could be considered anticipated by Mohan et al.'s use of 0.5% (5,000 ppm) of one of the claimed agents. Therefore, quercetin has been removed from Claims 46 and 64 and is now the subject of a newly presented independent Claim 69 wherein the concentration of quercetin is below that specified by Mohan et al. Therefore,

new Claim 69 is not anticipated by Mohan et al. and, Applicants respectfully submit, is patentable over the art of record.

Now that Claims 46 and 64 no longer call out quercetin, they, as well as those claims dependent upon them, are allowable. In view of the foregoing, it is respectfully submitted that the application is in condition for allowance. Reexamination and reconsideration of the application, as amended, are requested.

If for any reason the Examiner still finds the application other than in condition for allowance, the Examiner is requested to call the undersigned attorney at the Los Angeles telephone number (310) 734-5200 to discuss the steps necessary for placing the application in condition for allowance.

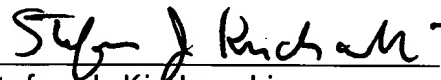
You are hereby authorized to charge any fees due and refund any surplus fees to our Deposit Account No. 50-2567.

Respectfully submitted,

REED SMITH CROSBY HEAFEY

Date: 14-October-2003

By:



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Copy of Mohan et al.